

a

TOH HOCK THYE & ORS.

v.

TOH CHWEE BIOW

HIGH COURT MALAYA, KUALA TERENGGANU

MOHD. ZAHIR ISMAIL J

b

[CIVIL SUIT NO. 14 OF 1975]

2 APRIL 1981

CIVIL PROCEDURE: *Suit against defendant - Defence filed - No action taken to set case for trial - Notice to show cause - Order 34 r. 8(2) RHC - Suit struck off.*

c

This was an application by the defendant to strike out the suit filed against him as plaintiffs had taken no steps to set the case for trial. Notice to show cause was served on the plaintiffs. Plaintiffs' reason for not setting suit for trial was that approaches had been made by the defendant with the plaintiffs for settlement. Defendant's Counsel denied that such approaches had been made. Counsel also said that the case was five years old and defence was filed on 6 May 1975 and thereafter no action had been taken by the plaintiffs to set the case for trial.

*d***Held:**

There was no just cause for the case to be allowed to proceed. The plaintiffs had done nothing to set the case for trial. Even after receipt of the notice to show cause nothing had been done in this respect and the plaintiffs had even failed to contact Counsel on the other side to ask for time in order to file the necessary documents.

e

[Suit struck off with costs.]

For the plaintiffs - Lee Leng Guan

For the defendant - V.K. Palasuntharam

(Digest Form Only)

f

Also found at [1981] CLJ 87

*g**h**i*